IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

OP.No. 8563 of 1999(T)

PETITIONER:

N.GOPALAKRISHNA KURUP,
HSA (RETIRED), GOVT. H.S.SATHAMCOTTA,
KOTTARAKKARA, KOLLAM, RESIDING AT
TRIVENI, MUTHUPPILAKKAD EAST,
PORUVAZHI P.O, KOLLAM.

BY ADV. SRI.J.JULIAN XAVIER

RESPONDENTS:
----

1. **STATE OF KERALA,**
   REPRESENTED BY ITS SECRETARY,
   FINANCE DEPARTMENT, GOVT. OF KERALA,
   THIRUVANANTHAPURAM.

2. **ACCOUNTANT GENERAL (AUDIT),**
   GOVT. OF KERALA, THIRUVANANTHAPURAM.

3. **DEPUTY DIRECTOR OF EDUCATION,**
   KOLLAM.

4. **HEADMISTRESS,**
   GOVT. HIGH SCHOOL,
   SASTHAMCOTTA.

BY GOVERNMENT PLEADER SRI.SANDESH RAJA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.8563/1999

ORDER IN CMP NO. 14282 OF 1999 IN OP NO.8563/1999

DISMISSED

21/3/2007 **SD/-ANTONY DOMINIC, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE OBJECTION DATED 16.10.95.

EXT.P2: TRUE COPY OF THE REPRESENTATION DATED 3.10.96.

EXT.P3: TRUE COPY OF THE GOVT.ORDER DATED 24.10.97.

EXT.P4: TRUE COPY OF THE CIRCULAR DATED 18.3.96.

EXT.P5: TRUE COPY OF THE LETTER DATED 27.11.97 FROM THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P6: TRUE COPY OF THE LETTER DATED 18.5.98 FROM THE 3RD RESPONDENT TO 2ND RESPONDENT.

EXT.P7: TRUE COPY OF THE LETTER DATE 30.6.98.

EXT.P8: TRUE COPY OF THE PROCEEDINGS DATED 17.7.98 OF THE 4TH RESPONDENT.

EXT.P9: TRUE COPY OF THE JUDGMENT DATED 17.8.98 IN OP 6957/97.

//TRUE COPY//

ANTONY DOMINIC, J.
==========
O.P NO. 8563 OF 1999
==========

Dated this the 21st day of March, 2007

J U D G M E N T

The petitioner, was an High School Assistant in Government service till his retirement on 30/6/98. His grievance is against the proposal to recover Rs.18,393/-, which is stated to be the excess paid to him during his service. As already noted, his retirement was on 30/6/98 and Ext.P8 issued by the Headmistress of the School addressed to the Accountant General was on 17/7/98. Obviously, therefore, as on the date of Ext.P8, the petitioner was a retired employee and thus what governs recovery from him is Rule 3(c) of Part 3 of K.S.R, which permits recovery of excess payments made to an officer by mistake within a period of four years preceding his retirement. In so far as this case is concerned, it is seen that the amount sought to be recovered is alleged to have been received by the petitioner during the period from 1972 to 1998. Obviously, therefore, applying the provisions of Rule 3(c) supra, the recovery has to be confined to a period of four years from the date of retirement of the petitioner and no

recovery can be effected for the period preceding thereto. Even otherwise, I see no justification to permit recovery from a retired employee and that too a benefit which he has receiving twenty six years prior to his retirement.

2. Be that as it may, applying the provisions to Rule 3(c), I direct that recovery from the petitioner can only be the excess monetary component that the petitioner has received only for the period of four years prior to 30/6/98, the date on which the petitioner has retired from service.

3. The respondents shall take steps for quantification of the amount that is to be recovered for the aforesaid period, within a period of three months from the date of receipt of a copy of the judgment. After effecting recovery of the aforesaid amount, the balance amount that is due to the petitioner shall be disbursed forthwith thereafter.

Original petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp